

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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 :  
 UNITED STATES OF AMERICA, : CR-98-1101  
 :  
 v. : U.S. Courthouse  
 : Brooklyn, New York  
 JOHN DOE, :  
 :  
 Defendant. : TRANSCRIPT OF HEARING  
 : June 21, 2010  
 -----X 10:30 a.m.

BEFORE:

HONORABLE I. LEO GLASSER, U.S.D.J.

APPEARANCES:

For the Movant:

MORGAN LEWIS & BOCKIUS LLP  
 101 Park Avenue  
 New York, New York 10178-0060  
 BY: KELLY A. MOORE, ESQ.  
 BRIAN A. HERMAN, ESQ.  
 DAVID A. SNIDER, ESQ.

For the Respondent:

WILSON ELSEER MOSKOWITZ EDELMAN  
 & DICKER LLP  
 150 East 42nd Street  
 New York, New York 10017-5639  
 BY: RICHARD LERNER, ESQ.  
 LAUREN J. ROCKLIN, ESQ.

STAMOULIS & WEINBLATT LLC  
 6 Denny Road - Suite 307  
 Wilmington, DE 19809  
 BY: STAMATIOS STAMOULIS, ESQ.

Court Reporter:

Mickey Brymer, RPR  
 Official Court Reporter  
 United States District Court  
 225 Cadman Plaza East  
 Brooklyn, New York 11201  
 (718) 613-2255

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1 stand and say they were stolen, but -- and under the  
2 circumstances I would ask the Court to reconsider having those  
3 documents returned to the Court or the U.S. Attorney's Office  
4 so they can be made use of.

5 THE COURT: Mr. Lerner, do you want to be heard on  
6 that?

7 MR. LERNER: Well, I have no objection to Mr. Doe  
8 taking the stand.

9 THE COURT: I'm not referring to Mr. Doe taking the  
10 stand. The question was an application to the Court to direct  
11 that those documents be returned to the United States  
12 Attorney's Office and to the Court to the extent that those  
13 documents were obtained from a file which was marked under  
14 seal and they were sealed documents which were not to be  
15 disclosed absent a court order disclosing them.

16 MR. LERNER: They were obtained lawfully from  
17 Mr. Bernstein, therefore, we object.

18 MS. MOORE: Your Honor, Mr. Bernstein did not obtain  
19 them lawfully from my client.

20 THE COURT: Excuse me, Ms. Moore. Stop the back and  
21 forth colloquy.

22 With respect to that I'll reserve. I will entertain  
23 a memorandum with respect to that and I will give both parties  
24 an opportunity to do that.

25 With respect to the presentence report I have

1 absolutely no hesitation in enjoining any further  
2 dissemination and I'll direct the presentence report to be  
3 returned. To the extent that you have that in your  
4 possession, return it immediately --

5 THE WITNESS: Absolutely.

6 THE COURT: -- to the United States Attorney's  
7 Office.

8 With respect to the cooperation agreement, proffer  
9 agreement and any other document which you know was obtained  
10 from a file which was marked under seal, I will entertain a  
11 memorandum with respect to that and I'll reserve.

12 Are we finished? Why don't you have Mr. Doe  
13 testify. I think that issue is very, very much at the core of  
14 this proceeding.

15 In view of the fact it is five after one, why don't  
16 we recess for lunch and resume at two o'clock.

17 Two o'clock.

18 (Lunch recess.)  
19  
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